



The Role of Trade Unions/Labourers in Legal Protection Efforts Against Workers/Labourers in the Atmosphere of the Covid-19 Pandemic In view of Law Number 13 of 2003 concerning Manpower

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ABSTRACT

Trade unions are formed by workers by ensuring that their position and rights as workers can be balanced with the obligations they perform for employers. In the relationship between workers and employers or employers, it is undeniable that the position of workers is higher. And sometimes it results in the arbitrariness of the employers towards their workers. To reduce and deal with the possibility of this arbitrariness, workers should have an association which is usually called a trade union. with trade unions, workers can unite so as to balance their position with employers. Article 1 paragraph 1 expressly states that a trade/labor union is an organization formed from, by and for workers/laborers both within the company and outside the company, which is free, open, independent, democratic. This study uses a normative juridical approach, namely by collecting, studying and analyzing and understanding law as a set of rules or positive norms in the statutory system that regulates human life. In Law no. 21 of 2000 concerning Worker/Labour Unions spells out what the objectives of trade/labor unions are to provide protection, defend rights and interests, and improve proper welfare for workers/laborers and their families.

INTRODUCTION

National Development is carried out within the framework of development infrastructure and human resources (HR) to create a prosperous society, both materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia. (SIMONSEN, 2008)

Towards a more democratic, transparent and highly accountable state administration and the realization of good governance. Amendments to the 1945 Constitution of the Republic of Indonesia article 28 E paragraph (3) Law Number 21 of 2000 concerning Worker/Labor Unions, Decree of the Minister of Manpower KEP/16/MEN/2001 is the legal basis for implementing trade/labor union organizations based on in Law number 13 of 2003 concerning Manpower which implements the



Pancasila Industrial Relations system which workers/laborers and employers must understand in depth the substance and its implications.

The concept of industrial relations is expected to be able to realize dynamic, harmonious and just relations, obstacles and challenges to employment in the reform era, including a workforce that is not comparable to the available jobs, employers are less willing to understand the meaning of industrial relations and the low penalties for violations regulated in laws and regulations applicable manpower regulations, the welfare of workers/laborers is a fulfillment of physical and spiritual needs and/or needs, both inside and outside the employment relationship, which can directly or indirectly increase work productivity in a safe and healthy work environment. One of the Indonesian people's commitments to respect and guarantee the protection of human rights is contained in the second precept of Pancasila, the foundation of the state and the philosophy of life for the Indonesian nation, namely "Just and Civilized Humanity". Furthermore, a number of articles in the 1945 Constitution and its amendments strictly regulate guarantees for the protection of the most important human rights, namely in the political, economic, social and cultural fields.

In the context of the struggle for workers'/labourers' rights, there are several pillars that play a very important role in upholding and protecting the rights of workers/labourers in realizing their welfare, one of these pillars is the trade/labor union organization. The existence of trade/labor unions is aimed at providing protection, defending rights and interests, as well as increasing proper welfare for workers/laborers and their families. History has proven that the role of trade/labor unions in fighting for the rights of their members is very large, so that workers/laborers have benefited a lot from trade union organizations that are truly independent and consistent in fighting for workers' rights. In general, individual workers/laborers are in a weak position in fighting for their rights, becoming members of a trade/labor union will increase change both individually and as a whole. Human rights in a rule of law cannot be separated from order and justice, recognition of a rule of law is one of its goals to protect human rights, meaning that rights and at the same time individual freedoms or freedoms are recognized, respected and upheld.

Trade unions are formed by workers by ensuring that their position and rights as workers can be balanced with the obligations they perform for employers. In the relationship between workers and employers or employers, it is undeniable that the position of workers is higher. And sometimes it results in the arbitrariness of the employers towards their workers. To reduce and deal with the possibility of this arbitrariness, workers should have an association which is usually called a trade union. with trade unions, workers can unite so as to balance their position with employers.

The problem is that when the Covid-19 pandemic broke out, the main technique recommended by health experts and disease outbreaks was physical distancing. On this basis, various regions have implemented social restriction policies. Restrictions on community activities and self-quarantine are recommended to reduce the spike in transmission of Covid-19. This restriction also applies in various lines of life, including the company's operational activities. As a result, the impact of the company's operational processes cannot run optimally, and even stops, causing losses for entrepreneurs. On the other hand, for those who continue to operate, their income is reduced and even at zero due to consumers and users being affected by social restrictions as well. The Covid-19 pandemic has placed the company in a difficult position. In the end, efficiency layoffs are the choice of many employers, namely implementing efficiency by laying off a number of workers, in order to maintain business continuity and the continuity of work for some other workers.



In fact, based on the Constitutional Court's decision above, that efficiency layoffs can only be carried out in the context of permanent company closure. The phenomenon that occurred during the Covid-19 pandemic, efficiency layoffs were carried out without closing the company. The ratio of the spread of this phenomenon is that companies do not need to close to carry out efficiency if these changes can actually save the company and some other workers (Widiastiani, Hukum, Atma, & Yogyakarta, 2021).

If you refer to it, even though the Covid-19 pandemic situation is difficult and completely uncertain, especially when coupled with the increase in the unemployment rate. So, what is the role of trade/labor unions in legal protection efforts for workers/laborers in an atmosphere of the Covid-19 pandemic in terms of law number 13 of 2003 concerning employment? This is interesting for further study, because in the midst of this completely uncertain situation, legal protection for workers and employers in the field of employment cannot be overlooked.

LITERATURE REVIEW

The definition of a worker/laborer according to the Manpower Act Article 1 paragraph 3 is any person who works by receiving wages or other forms of remuneration. In this definition there are two elements, namely the element of people who work and the element of receiving wages or other forms of remuneration. This is different from the definition of labor, namely everyone who is able to do work to produce goods or services, both to meet their own needs and those of the community.

The definition of workforce includes workers/labourers, civil servants, soldiers, people looking for work, people with free professions such as lawyers, doctors, lecturers, traders, tailors, and so on. Each of these professions is different from one another even though all of them are included in the labor category. This is because the relationship between the laws and regulations that govern them are also different. For workers/labourers, the legal relationship with the employer is civil in nature, namely it is made between parties who have civil rights. The legal relationship between the two parties apart from being regulated in the work agreement they signed is also regulated in laws and regulations.

During the Dutch colonial era, what was meant by workers/laborers were unskilled workers such as coolies, carpenters, foremen who did manual labor, these people were referred to as Blue Collars. Meanwhile, those who do work in government or private offices are referred to as "employees/employees" (white collar). The distinction which had consequences for the differences in treatment and rights by the Dutch government was inseparable from wages for dividing the natives.

After Indonesia's independence, the difference between fine laborers and unskilled laborers was no longer recognized. All people who work in the private sector, both individuals and legal entities, are called labourers. This is stated in Law Number 22 of 1957 concerning Labor settlements. In the development of labor law in Indonesia, efforts have been made to replace the term laborer with the term worker, as proposed by the government (Ministry of Manpower) at the time of the 1985 FBSI II congress. a group that is always under pressure and is under another party, namely the employer (Abdul Hakim, 2009).

Worker/Labor Rights

According to the ICDHRE (Islamic Center for Democracy and Human Rights Empowerment), the rights of workers/laborers are a will or interest that is protected by applicable legal rules and regulations, in general in the Manpower Act, it has been regulated in CHAPTER X concerning protection, remuneration and well-being.



If the rights of workers/laborers are related to work relations, then the rights of workers/laborers that must exist are the rights to freedom of association, assembly and expression of opinion. The right to wages, rest, occupational health and safety guarantees. Then the rights of workers / laborers are arranged into several categories, namely as follows;

1) Economic Rights

Is a right that is calculated based on the amount of money that must be paid by the entrepreneur to the worker/laborer in a predetermined period, including;

- a) The right to wages
- b) The right to housing facilities
- c) Right to old age allowance
- d) The right to other benefits related to the work of workers/laborers

2) Political Rights

Is a right related to the rights of workers / laborers as citizens, including;

- a) The right to form trade/labor unions
- b) The right to become a member of a trade/labor union
- c) The right to strike
- d) The right to negotiate with employers
- e) The right to be free from any form of discrimination

3) Medical Rights

It is a right that is related to safety and physical fitness, including;

- a) The right to health and safety at work
- b) The right to work accident insurance
- c) The right to menstruate, give birth and breastfeed
- d) Right to rest

4) Rights are social

The intent is related to the function of the individual worker/laborer in society which includes;

- a) The right to statutory holidays
- b) Right to religious worship
- c) Right to marital leave
- d) The right to restrictions on child labour

b. Obligations of Workers/Labourers

In addition to the workers/laborers' rights discussed above, of course there are workers/laborers' obligations that must be met, namely;

- 1) Required to carry out work achievements for entrepreneurs
- 2) Must comply with company regulations
- 3) Must comply with work agreements
- 4) Obligation to comply with labor agreements
- 5) Obligation to maintain company secrets that are not against the law
- 6) Must fulfill all obligations as long as the permit has not been granted in the event that there is an appeal that has not yet been decided.



Apart from the above obligations, in carrying out daily operational activities, employees have other obligations towards the company. There are three important employee obligations, namely obedience obligations, confidentiality obligations, and loyalty obligations (Lalu Husni, 2000).

Definition of Worker/Labor Union.

Trade unions/labourers consist of two words, namely unions and workers/labourers. Unions in KBBI (Big Indonesian Dictionary) are associations, associations and associations. Worker/Labourer in KBBI is the activity of doing something that is done (done). Thus, workers/laborers can be interpreted as people who carry out an activity where the activity is to fulfill their daily needs. The definition of a trade union/labour union is an organization formed from, by and for workers/labourers, both within the company and outside the company, which is free, open, independent, democratic and responsible in order to fight for, defend and protect the rights and interests of workers and improve the welfare of workers/laborers and their families.

Labor law has been a legal product since ancient times. In Roman law, service contracts (*locatio conductio operarum*) only played a subordinate role, because slavery was so widespread. In medieval Germany, work relationships often involved personal matters. Although small-scale employment existed in some parts of the world, the second half of the 18th century is seen as the beginning of labor history. At that time most of the European population developed into a people who depended on the workers / laborers (proletariat) and social questions (pauperism) emerged to the surface. The social grievances of industrialization in the 19th century were also seen as the result of personal autonomy despite the power imbalance of the contracting parties. The development of workers' rights began in England in 1833 with the existence of a factory law. They limit the working period for children between 9 and 13 years to a maximum of eight hours, and children between 14 to 18 years to a maximum of 12 hours. Children under the age of 9 must attend school.

With the Ratification of the International Labor Organization (ILO) Convention Number 87 concerning Freedom of Association through the Presidential Decree of the Republic of Indonesia. Number 83 of 1998, begins a new chapter in organizing among workers/labourers in Indonesia. This ratification planted a firm foundation for the democratization of the workers' movement, in line with the demands for reform in all areas of the Indonesian nation's activities. As one of the reform steps in the field of Industrial Relations and in line with the ratification of the International Labor Organization (ILO) convention, the Indonesian state has promulgated Law Number 21 of 2000 concerning Worker/Labor Unions on August 4, 2000. (Bahder Johan Nasution, 2004)

Corona viruses are a large family of viruses that are common in animals and can cause disease in animals or humans. Occasionally, people who are infected with this virus can then pass it on to others. In humans several coronaviruses are known to have caused respiratory infections ranging from the common cold to more severe diseases such as middle east respiratory syndrome (MERS) and severe acute respiratory syndrome (SARS). The most recently discovered corona virus has caused the corona virus disease covid-19. Corona virus disease (covid-19) is an infectious disease caused by a newly discovered coronavirus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The first human case of COVID-19 was identified in the city of Wuhan, China in December 2019 (www.ilo.org-wcms_742959).



METHOD

This study uses a normative juridical approach, namely by collecting, studying and analyzing and understanding law as a set of rules or positive norms in the statutory system that regulates human life (UNDANG UNDANG REPUBLIK INDONESIA NOMOR 20 TAHUN 2003 TENTANG SISTEM PENDIDIKAN NASIONAL, 2003). The research was carried out according to doctrinal law by reviewing and researching library materials (library research) or in other words library law research using a statute approach. The type of research used by the author in this study is descriptive research. This study uses the method of literature study. Data analysis was carried out qualitatively in the form of words and sentences. Data analysis method is done by using deductive logic. The results of the analysis are then presented descriptively.

RESULTS AND DISCUSSION

Quarantine and disruption to the business world, travel bans, school closures and other closing measures have had a sudden and drastic impact on workers/laborers and companies. Often the first to lose their jobs are those whose jobs are already vulnerable such as shop workers/workers, waitresses, kitchen workers, baggage handlers and cleaners, informal workers, who account for 61% of the global workforce are especially vulnerable during the COVID-19 pandemic because they must face higher OSH risks and lack of adequate protection. Working in the absence of protection such as sick leave or unemployment benefits, makes these workers/laborers may need to choose between health and income, which risks their health, the health of others and their economic well-being.

The authority of trade/labour unions in efforts to enforce labor law is regulated in the Manpower Law in conjunction with Law Number 21 of 2000 concerning Worker/Labor Unions in conjunction with Law Number 2 of 2004 concerning Industrial Relations Disputes. Which states that the trade/labor union has the objective of protecting its members from the actions of employers who employ workers/laborers who are not in accordance with statutory regulations. To reduce and deal with the possibility of this arbitrariness, workers/laborers should have an association which is usually called a trade/labor union. With a trade/labour union, workers/labourers can unite so as to balance their position with that of the employer. It is therefore natural that everyone has the right to join a trade/labor union which he freely chooses to join, promote and protect his interests. The state is permitted to make reasonable restrictions on this right, to protect the interests of others.

In Law no. 21 of 2000 concerning Worker/Labour Unions spells out what the objectives of trade/labor unions are to provide protection, defend rights and interests, and improve proper welfare for workers/laborers and their families. As for legal protection for workers/laborers in an atmosphere of the Covid-19 pandemic as stipulated in the Manpower Act and its implementing regulations, namely:

1. Protection against wages

In Article 90 of the Manpower Act, KEPMEN Manpower and Transmigration No. KEP-231/MEN/2003 of 2003 concerning Procedures for Postponing the Implementation of the Minimum Wage, and Governor Regulations concerning Procedures for Postponing the Implementation of the Provincial Minimum Wage.



2. Protection of occupational safety and health (K3)

As stated in Article 86 paragraph (1) of the Manpower Act it is stated that "every worker/laborer has the right to obtain protection for:

- a. occupational Health and Safety
- b. morals and decency and
- c. treatment in accordance with human dignity and values as well as religious values.

Occupational safety and health (K3) arrangements are also contained in Law number 1 of 1970 concerning work safety and the Circular Letter of the Minister of Manpower of the Republic of Indonesia Number M/3/HK.04/III/2020 also regulates various prevention of the spread and handling of cases related to covid -19 in a work environment.

3. Protection against Termination of Employment (PHK)

Article 61 paragraph (1), the Labor Law, work agreements end when: The worker/laborer dies, the term of the work agreement ends, there is a court decision or determination of an industrial relations dispute resolution institution that has permanent legal force and there are certain circumstances or events stated in work agreements, company regulations, or collective bargaining agreements that can end the employment relationship (Article 164 paragraphs (1) and (3)). As long as there is no establishment of an industrial relations dispute resolution institution (LPPHI), workers/laborers and employers must continue to carry out all their obligations. While waiting for the stipulation, employers can carry out suspensions while continuing to pay workers/labourers' rights. The mechanism for resolving employment termination disputes (PHK) is carried out in stages, namely through bipartite negotiations, tripartite (mediation, consolidation, arbitration), the industrial relations court (PHI) and the Supreme Court (MA). (Sumanto, 2014)

Termination of employment by employers should be the final decision taken by employers. However, in certain circumstances termination of employment is the best course of action. Judging from the legal protection that has been discussed above, it can be seen that the implementation of legal protection for workers/laborers in an atmosphere of the Covid-19 pandemic, if carried out in accordance with existing rules there will already be adequate protection.

In industrial relations at the company level, there are many institutions that can be used as a means to build cooperation. Two of the most important of these are establishing a bipartite cooperation institution (LKS Bipartit) and making a collective labor agreement (PKB), of course, with the assumption that a trade union has been established in the company.

The role of trade/labor unions has been regulated in Law Number 21 of 2000 concerning Trade/Labour Unions, the powers are:

1. Involved in Establishing a Bipartite Cooperation Institution (LKS Bipartite)
2. Involved in Making Collective Labor Agreements (PKB)
3. Demanding Fair and Decent Remuneration
4. Right to Get Education and Training
5. Build Communication

CONCLUSION

The role of trade unions in supervising and enforcing labor law, such as: Involving in the Formation of Bipartite Cooperation Institutions (LKS Bipartite), namely consultation, communication and deliberation forums with the main task of being a medium for the application of industrial relations in the practice of daily performance, especially in terms of efforts to increase work productivity, work and business peace, as well as increase worker/labor participation in work



assignments, get involved in making collective labor agreements (PKB), namely participation institutions that are oriented towards efforts to preserve and develop harmonious work relations, business and common welfare, Demanding Fair and Decent Remuneration, namely Remuneration that is able to appreciate a person for his achievements and dedication to the company, The Right to Get Education and Training, namely Industrial relations not only require changes in the mental attitude or social attitude of the perpetrators, but also knowledge and skills in the field of technical management and company management. Therefore, companies must prepare a conception of lifelong education and training in their company, Building Communication, namely Communication builds motivational development by explaining to employees what to do, how they work, and what can be done to improve performance in order to improve work quality.

REFERENCES

- SIMONSEN, PIA SIMMONSEN and PIA. (2008). The Role of Trade Unions in Peace Building. *International Centre for Trade Union Rights*, 15(1), 3–4, 18.
- UNDANG UNDANG REPUBLIK INDONESIA NOMOR 20 TAHUN 2003 TENTANG SISTEM PENDIDIKAN NASIONAL. (2003). No 主観的健康感を中心とした在宅高齢者における健康関連指標に関する共分散構造分析Title. *Demographic Research*, 49(0), 1-33 : 29 pag texts + end notes, appendix, referen.
- Widiastiani, Nindry Sulistya, Hukum, Fakultas, Atma, Universitas, & Yogyakarta, Jaya. (2021). *Justifikasi Pemutusan Hubungan Kerja Karena Efisiensi Masa Pandemi Covid-19 dan Relevansinya dengan Putusan Mahkamah Konstitusi Nomor. 18*.
- Abdul Hakim, 2009, *Dasar-Dasar Hukum Ketenagakerjaan*, Jakarta, Citra Aditya Bhakti, p.39
- Lalu Husni, 2000, *Hukum Ketenagakerjaan indonesia*, Jakarta, Raja Grafindo Persada, p.80
- Bahder Johan Nasution, 2004, *Hukum Ketenagakerjaan Kebebasan Berserikat Bagi Pekerja*, Jakarta, Mandar Maju, p.4
- Sumanto, 2014, *Hubungan Industrial; Memahami Dan Mengatasi Potensi Konflik-Kepentingan Pengusaha-Pekerja Pada Era Modal Global*, Jakarta, *Center of academic publishing (CAPS)*, p.233
- www.ilo.org-wcms_742959 diakses tanggal 19 oktober 2020 jam 10.30 WIB
- <https://m.hukumonline.com/berita/baca/lt5e957e37d3ef0/alasan-force-majeur-yang-berimplikasi-phk-karyawan/> diakses tanggal 20 oktober 2020 jam 10.10 WIB
- Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan